

Agricultural Land Restoration after Pipeline Construction

> Restoration requirements

Prior to trenching operations commencing, the landowner and county inspector are allowed to view the proposed center line for the pipeline to ensure proper location. The county inspector may temporarily halt construction if not in compliance with the law, terms of an independent agreement, or line location. Landowners should check with the county before construction to ensure the county inspector knows any special provisions negotiated with the company.

- The pipeline company must give landowners its name, a toll-free telephone number, and an address for inquiries or claims.
- Upon landowner request, the pipeline company must measure topsoil depth at selected locations before and after construction.
- Pipeline construction in wet soil conditions should not commence or continue when the passage of heavy equipment may cause rutting to the extent that the topsoil and subsoil may mix or underground drainage structures may be damaged.
- Pipeline construction will take place only within the strip of land specified in an easement. The limits of the construction right-of-way will ordinarily be defined by flags or other markers. The county inspector is required to be present when the trench is opened and closed. The county inspector must oversee all permanent drain tile repairs, backfilling, and restoration of terraces, waterways, and other erosion control structures.
- Topsoil must be removed from the trench area and a part of the right-of-way where subsoil excavated can be stored. Topsoil removed will be stored on topsoil and subsoil on top of subsoil to prevent mixing. Topsoil may not be used to make field entrances or roadways without written consent from the landowner. The pipeline company may use subsoil or bring in gravel or other fill. On projects where the trench would be 18 inches wide or less, topsoil removal may be waived if the landowner consents in writing. This allows landowners to decide if topsoil removal and replacement over a wider area would have a more negative impact on their land.

- Temporary repairs are required for all flowing tile lines that are cut and they must be maintained in good condition for as long as they are needed. Dry tile lines do not require temporary repairs unless the trench is open more than 10 days, but open ends must be protected. The trench must remain open at each tile location until permanent repair is completed and accepted by the county inspector. Prior to permanent tile repair, a probe must be run up the tile to check for obstructions or tile crushed by construction equipment. Any obstructions found must be repaired as part of the permanent repair. All tile used for repairs must be in good condition and unobstructed. The pipeline company must correct drainage problems that can reasonably be attributed to the pipeline construction (no time limit on this rule).
- Backfilling shall be completed in a manner that does not damage or misalign the repaired tile lines.
- After construction and topsoil replacement, the amount of rock on the top 24 inches of the work area cannot exceed that of adjacent, undisturbed soil. Excess rock over three inches in diameter must be removed. Access roads and areas adjacent to the right-of-way must also be examined for excess rock. Rock disposal is often a basis for a separate agreement between pipeline companies and landowners.
- At least three passes with deep tillage equipment (at least 18 inches deep on crop land, 12 inches on other land) must be made to alleviate soil compaction on the property.
- Following deep tillage and topsoil replacement, agricultural land that is not in row crop production at the time of construction, such as hay ground or set-aside land, must be reseeded. The seed mix used must be comparable to original ground cover. If it is too late in the growing season to plant a commercial crop, a cover crop must be planted.



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> ***Iowa statutes and rules***

Iowa Code chapters 479 and 479B provide for regulation of natural gas and hazardous liquid pipelines and underground storage facilities in Iowa. These chapters also contain protections for landowners and their tenants from environmental and economic damages resulting from pipeline construction, operation, or maintenance.

Pipeline companies must file a land restoration plan with the Iowa Utilities Board (IUB) for intrastate projects that require state approval. The IUB grants permits and reviews land restoration plans for such projects. The permit proceeding includes notice published in the affected area, an opportunity for filing of objections, and a public hearing. Land restoration plans must show how restoration requirements will be met. A pipeline company must provide copies of the approved land restoration plan to all landowners of property to be disturbed by construction. Interstate natural gas pipelines that are subject to Federal Energy Regulatory Commission (FERC) authority are exempt from IUB land restoration rules.

Specific land restoration rules are contained in Chapter 9 of the Iowa Administrative Code Section 199. During construction, county inspectors enforce land restoration rules. All inspections must be under the supervision of a registered professional engineer. The county board of supervisors may assign inspection duties to the county engineer or hire an outside engineer. The IUB issues enforcement or civil penalty orders, but counties must initiate such actions. The rules allow landowners to negotiate individual and independent written agreements with the pipeline company for land restoration on their property. Terms of these agreements supercede Iowa regulations and the land restoration plan if they are reasonably consistent with Iowa regulations.

> ***Surveys***

Pipeline companies may enter private properties to make land surveys determining the direction or depth of a pipeline to be constructed. If the landowner does not grant permission to enter, the company can enter later by giving the landowner or any resident of the property 10 days written notice by certified mail of its intent to enter the land. The company must pay for any damages caused by the entry and survey.

> ***Easement cancellation***

If a landowner decides to negotiate a voluntary easement or any other interest in his or her land, any agreement can be canceled within seven days of being signed by providing written notice to the company by certified mail with return receipt requested. The company cannot record an agreement until the cancellation period has expired.

> ***Iowa One Call***

Excavators, including farmers and tilers, must provide notification to Iowa One Call at least 48 hours prior to excavating. Drain tile installation requires One Call notification. Give notice by calling 811 or 1-800-292-8989. Iowa One Call notifies the operators of all underground utilities, including pipelines, in the area of the excavation. Operators must locate and mark their facilities within 48 hours, excluding Saturdays, Sundays, and legal holidays. Excavators are required to preserve markings at all times during excavation.

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> ***Crop deficiency payments***

Damage payments may include an allowance for reduced crop yield for a period of time until the soil recovers. Each affected year after construction, the landlord or tenant should examine the crops and contact the pipeline company at least 14 days prior to harvest to renegotiate a crop deficiency payment if he or she feels the settlement is insufficient.

> ***Damage payments***

In addition to payment for a voluntary easement or an easement obtained by eminent domain, the pipeline company must pay for property damages caused by constructing and maintaining a pipeline. This may include, but is not limited to, damage to land, crops or forage, fences, farm equipment, or livestock. Written claims for damages must be submitted to the pipeline company within one year of the completion of construction except for drain tile or crop deficiency damage claims. The company must provide the landowner with a written statement describing how damages resulting from pipeline construction will be paid. If the company has an unpaid damage claim for previous construction on the landowner's property, any new pipeline construction under the original easement is forbidden by law unless the claim is being settled through arbitration or litigation. Landowners and pipeline companies may negotiate damage settlements. If the parties cannot agree, the landowner (or tenant) may petition the county board of supervisors to request that a compensation commission determine damages. The commission's damage appraisal is final unless appealed to district court. The county board of supervisors can also file complaints with the IUB seeking corrective action by and/or penalties against pipeline companies.

> ***Safety standards***

Pipeline construction is subject to IUB inspection for compliance with state and federal safety standards. Periodic inspections may be made after a pipeline is in service to ensure it is operated/maintained according to state and federal standards.